

CALLAHAN & BLAINE, APLC
A Professional Law Corporation
DANIEL J. CALLAHAN, Cal. Bar No. 91490
EDWARD SUSOLIK, Cal. Bar No. 151081
BRETT E. BITZER, Cal. Bar No. 264736
3 Hutton Centre Drive, Ninth Floor
Santa Ana, California 92707
Telephone: (714) 241-4444
Facsimile: (714) 241-4445
Email: bbitzer@callahan-law.com

Attorneys for Defendants
R. MICHAEL YIN and
MARCELLA ANNE MANCE

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

In re

JEFFREY GEORGE DRAEGER,

Debtor in Possession.

BK Case No.: 19-52499-MEH

Chapter 11

WBL SPE III, LLC a Delaware limited
liability company, as Assignee from
WORLD BUSINESS LENDERS, LLC, as
successor-in-interest to WBL
CALIFORNIA, LLC, a California limited
liability company,

AP Case No.: _____

**NOTICE OF REMOVAL OF ACTION
PENDING IN CALIFORNIA SUPERIOR
COURT TO UNITED STATES
BANKRUPTCY COURT**

Plaintiff,

v.

R. MICHAEL YIN, an individual;
MARCELLA ANNE MANCE, an
individual; and DOES 1 through 20,
inclusive,

Defendants.

1 **TO: THE UNITED STATES BANKRUPTCY COURT, DEBTOR, PLAINTIFF**
2 **WBL SPE III, LLC, COUNSEL OF RECORD, AND ALL PARTIES IN INTEREST:**

3 **PLEASE TAKE NOTICE** that defendants R. Michael Yin and Marcella Anne Mance
4 (“Defendants”), hereby file this *Notice of Removal* pursuant to 28 U.S.C. §§ 1452, 157 and
5 Federal Rule of Bankruptcy Procedure 9027 based on the following.

6 1. On December 12, 2020, Debtor in Possession Jeffrey George Draeger (“Debtor in
7 Possession”) filed a voluntary petition for relief under Title 11, Chapter 11 of the United States
8 Code in the United States Bankruptcy Court, Northern District of California, San Jose Division,
9 Case No. 20-52499-MEH (the “Bankruptcy Case”).

10 2. On June 8, 2020, Plaintiffs Jeffrey George Draeger and Promax Builders, Inc.
11 dba Pro-Craft Builders commenced an adversary proceeding against defendants WBL California,
12 LLC, World Business Lenders, LLC, and WBL SPE III, LLC in the United States Bankruptcy
13 Court, Northern District of California, San Jose Division, AP Case No. 20-5032-MEH (the
14 “Adversary Proceeding”).

15 3. On June 29, 2020, WBL SPE III, LLC commenced a civil action against R.
16 Michael Yin and Marcella Anne Mance in the California Superior Court for Santa Clara County,
17 entitled WBL SPE III, LLC v. Yin et al., Sup. Case No. 20-CV-367713 (the “State-Court
18 Action”). Until the time of filing this *Notice of Removal* and filing a copy of this *Notice of*
19 *Removal* with the Clerk of the Court for the California Superior Court, the State-Court Action
20 was pending before the California Superior Court.

21 4. On August 13, 2020, the United States Bankruptcy Court granted plaintiffs leave
22 to file a *First Amended Complaint* to add Michael Yin and Marcella Anne Mance as additional
23 Plaintiffs in the Adversary Proceeding, which was filed on August 13, 2020.

24 5. This *Notice of Removal* is accompanied with a copy of process and pleadings in
25 the State-Court Action as required by Federal Rule of Bankruptcy Procedure 9027, as the term
26 “pleadings” is defined pursuant to Federal Rule of Civil Procedure 7. To the extent that
27 additional documents relating to the State-Court Action are required, plaintiff WBL SPE III,
28 LLC shall submit such documents to the Bankruptcy Court.

6. The State-Court Action, including all claims and causes of action asserted therein, is a civil action other than a proceeding before the United States Tax Court, and it is not a civil action by a governmental unit to enforce such governmental unit's police or regulatory power. The State-Court Action was commenced after the filing of the Bankruptcy Case.

7. The State-Court Action is a civil proceeding related to the Bankruptcy Case and the Adversary Proceeding. The Bankruptcy Court is presiding over the Bankruptcy Case pursuant to the general reference with respect to cases commenced under Title 11 of the United States Code in the United States District Court for the Northern District of California and 28 U.S.C. § 1334. Debtor, who is a plaintiff in the Adversary Proceeding, has alleged various claims against WBL SPE III, LLC, including Unfair Business Practices (Violation of California Business & Professions Code §§ 17200-17208), Declaratory Relief, Avoidance and Recovery of Constructive Fraudulent Transfers, Objection to Claim (11 U.S.C. § 502), and Avoidance of Lien (11 U.S.C. § 506(d)). The State-Court Action asserts that defendants Michael Yin and Marcella Anne Mance breached personal guarantees to plaintiff WBL SPE III, LLC, as a result of the default by Promax Builders, Inc. *dba* Pro-Craft Builders, which necessarily requires that the Court adjudicate the allowed amount of the underlying obligation, including the applicable interest rate and amount of the pre-payment penalty (if any), which is the precise issue before the Bankruptcy Court in the Bankruptcy Case and the Adversary Proceeding.

Further, resolution of the claims asserted in the State-Court Action will significantly affect administration of the estate, and may involve proceedings affecting the liquidation of assets of the estate and the adjudication of the debtor/creditor relationship and the equity security holder relationship. All such proceedings are core proceeding as defined under 28 U.S.C. § 157. In the event that any claim or cause of action asserted in the State-Court Action is determined to be non-core, defendants Michael Yin and Marcella Anne Mance consent to entry of a final order or judgment by the United States Bankruptcy Court.

8. This *Notice of Removal* is filed less than thirty (30) days after receipt, through service, of the summons and complaint. Each claim and cause of action alleged in the State-Court Action is related to the Bankruptcy Case. Removal of each claim and causes of action

alleged in the State-Court Action to the Bankruptcy Court is authorized by 28 U.S.C. §§ 1452, 1334, and 157, and the General Order of the United States District Court for the Northern District of California referring all bankruptcy cases to the United States Bankruptcy Court for the Southern District of California. Further, removal of this State-Court Action is made in accordance with Federal Rule of Bankruptcy Procedure 9027.

NOW, THEREFORE, all parties to the State-Court Action pending in the California Superior Court for Santa Clara County, are **HEREBY NOTIFIED** pursuant to Federal Rule of Bankruptcy Procedure 9027(e) as follows:

Removal of the State-Court Action and all claims and causes of action therein was effectuated upon filing of a copy of this *Notice of Removal* with the Clerk of the Court for the California Superior Court for Santa Clara County pursuant to Federal Rule of Bankruptcy Procedure 9027(c). The State-Court Action is removed from the California Superior Court to the United States Bankruptcy Court presiding over the Bankruptcy Case. The parties to the State-Court Action shall proceed no further in the California Superior Court unless and until the State-Court Action is remanded thereto by the United States Bankruptcy Court.

Dated: August 13, 2020

CALLAHAN & BLAINE, APLC

By: /s/ BRETT E. BITZER

Edward Susolik, Esq.

Brett E. Bitzer, Esq.

Attorneys for Defendants R. MICHAEL
YIN and MARCELA ANNE MANCE